

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA**

**IN RE:**

**ATHEAL PIERCE  
XXX-XX-2858**

**CHAPTER 13 CASE  
NO. 05-31205-DHW**

**Debtor(s)**

**TRUSTEE'S OBJECTION TO CONFIRMATION**

COMES NOW, the Trustee, by and through the undersigned counsel, and pursuant to 11 U.S.C. §1325 objects to confirmation of the debtor(s) plan as filed. As grounds for said objection, the Trustee states as follows:

1. The debtor(s) Chapter 13 plan was filed April 26, 2005.
2. The debtor originally filed his case pro se. His case has been continued many times due to many inconsistencies and the last continued §341 Meeting of Creditors was held August 25, 2005.
3. It is the Trustee's contention that this plan has been filed in bad faith. In order to determine if a plan is filed in bad faith, the 11<sup>th</sup> Circuit provided in the case of Kitchens, 702 F.2d 885 (11<sup>th</sup> Cir. 1983) that the Bankruptcy Court is to consider, but not be limited, to the following factors:

1. The amount of the debtor's income from all sources.
2. The living expenses of the debtor and her dependents.
3. The probable expected duration of the debtor's Chapter 13 plan.
4. The debtor's motivations and sincerity in seeking relief under the provisions of Chapter 13.

5. The debtor's degree of effort.
  6. The debtor's ability to earn in the likelihood of fluctuation in her earnings.
  7. Special circumstances such as inordinate medical expenses.
  8. The circumstances under which the debtor has contracted her debts and has demonstrated bona fides, or lack of same, in dealing with her creditors.
4. It is noted that the debtor attempted to request that his case be dismissed on this date, but the Court issued a submission error as the document was incorrectly styled and the incorrect ECF docket event was used.

WHEREFORE, the above premises considered, the Trustee objects to confirmation of this plan as filed based on bad faith.

Respectfully submitted this 12<sup>th</sup> day of September 2005.

Curtis C. Reding  
Standing Chapter 13 Trustee

By: /s/ Sabrina L. McKinney  
Sabrina L. McKinney  
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CERTIFICATE OF SERVICE

I, Sabrina L. McKinney, certify that a copy of the foregoing TRUSTEE'S OBJECTION TO CONFIRMATION has been served on the parties listed below by placing same in the United States Mail, postage prepaid and properly addressed or via email, this 12<sup>th</sup> day of September 2005.

/s/ Sabrina L. McKinney  
Sabrina L. McKinney

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